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SUBJECT: UPDATE ON FREE SPEECH PROSECUTIONS IN CAMBODIA

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B) PHNOM PENH 654

SENSITIVE BUT UNCLASSIFIED

11. (SBU) SUMMARY: Two new convictions - one on defamation and one on disinformation charges - have again increased attention on the free speech debate in Cambodia. Both cases involve disputes between private parties. Separately, Minister of Information Khieu Khanarith said November 9 that the fate of imprisoned editor Hang Chakra (Ref A) depended on Deputy Prime Minister Sok An. This message also provides updates on the other free speech prosecutions in Cambodia in recent months. END SUMMARY.

Text Messages and Quotes to Journalists

12. (SBU) The Phnom Penh Municipal Court convicted freelance journalist Ros Sokhet for disinformation under Article 62 of the UNTAC penal code, and sentenced him to two years in prison on November 6. The case stemmed from a complaint filed by fellow journalist Soy Sopheap, a TV commentator and editor of Deum Ampil newspaper, after he allegedly received threatening text messages from Ros Sokhet.

13. (SBU) Article 62 may be applied to a party responsible for distributing false information in bad faith, and with malicious intent, provided that the act has disturbed or is likely to disturb the public peace. Ros admitted to sending text messages to Soy Sopheap, whom he has known for more than 10 years, but claimed they were a warning about rumors circulating in the journalism community. Ros insisted that he never sent the messages to third parties, or discussed the information with other persons. However, an October 12 article in the Phnom Penh Post quoted the then unnamed sender of the text messages, saying he had received information from government officials about alleged corruption by Soy Sopheap.

14. (SBU) The exact content of the text messages has not been made public, but reportedly implicated Soy Sopheap in the practice of extorting money from high-ranking persons in exchange for not publishing negative stories about them or their families. During the hearing, the judge and prosecutor stated that Ros Sokhet had spoken to other journalists about these allegations, and was therefore subject to the disinformation statute. Although no evidence or third-party testimony was presented during the hearing to support this statement, there may be additional evidence in the court file, which under the French-based civil code system remains confidential and can only be accessed by court officers or parties' lawyers.

15. (SBU) The case also drew criticism for the speed with which it was prosecuted. Police investigated, questioned, and arrested Ros Sokhet on October 28. On October 29, the Phnom Penh Municipal Court placed Ros on trial, stopping short of a decision when Ros requested time to find a defense attorney. The court allowed a one-week recess, but resumed on November 6, proceeding rapidly to its verdict.

Allegation Leads to Defamation

¶16. (SBU) On November 11, the Prey Veng Provincial Court found school teacher Chin Rithy liable for defamation against his school principal, and ordered Chin to pay a five million Riel fine (\$1,250 USD) to the state, plus additional compensation of five million Riel to the principal. In March, Chin Rithy, who is also the provincial director of the Cambodian Independent Teachers Association (CITA), filed a formal complaint with the local department of education against school principal Yin Sovuthy for land-grabbing, alleging that Yin wrongfully sold a plot of land belonging to the school. In August, the principal responded by demoting Chin Rithy and filing defamation charges against him. The local department of education has yet to act on the teacher's original complaint against the principal. CITA President Rong Chhun said Chin Rithy will appeal the court's decision.

Hang Chakra Fate in the Hands of Sok An

¶17. (SBU) Minister of Information Khieu Khanarith told Radio Free Asia during a November 9 interview that the fate of imprisoned newspaper editor Hang Chakra depended on Deputy Prime Minister Sok An, the plaintiff against Hang. Several groups, including a group of journalists and the opposition Sam Rainsy Party, wrote to the King advocating a royal pardon for Hang. It is common for the King to grant amnesty in certain cases around important religious and national holidays, such as the recent Water Festival, but the

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requests must originate with the government. The King reportedly forwarded the letters to Prime Minister Hun Sen and encouraged the government to request amnesty on Hang's behalf. There has been no official response from the government yet, and the Minister of Information implied that DPM Sok An would decide. To date, Sok An has not responded to Hang's September letter of apology (Ref A).

Other Updates

¶18. (SBU) On October 14, the Appeals Court denied SRP Parliamentarian Mu Sochua's appeal of the June 10 dismissal of her lawsuit against the Prime Minister. Afterwards, Mu indicated that she would not pursue the case further. On October 28, the Appeals Court also denied her appeal of her August 4 liability for defamation. Mu stated she intended to continue this fight, and would send her appeal to the Supreme Court. DPM and Foreign Minister Hor Namhong's defamation case against Sam Rainsy in the Phnom Penh Municipal Court is on hold, pending the outcome of a similar defamation trial in France.

¶19. (SBU) The Phnom Penh Municipal Court is expected to re-try the case against Moeung Sonn on November 24 (Ref A). Moeung, the Khmer Civilization Foundation President convicted of disinformation and sentenced to two years in prison in June, has written multiple appeals to the King, Prime Minister Hun Sen, and DPM Sok An since then, requesting intervention in the case and reconsideration of the conviction. Moeung remains in France.

¶110. (SBU) In Takeo Province, Cham Muslim community leader Ny San remains in pre-trial detention pending a hearing in his case (Ref A). Ny is charged with disinformation and destruction of property, and the case is currently with an investigating judge. The two Cambodian Center for Human Rights activists and Radio Free Asia reporter appeared for questioning with their attorneys on October 6. Each has been charged with spreading false information, but the judge did not issue warrants for their arrest after questioning; they remain free while their cases undergo further investigation by the court.

¶111. (SBU) In Ratanakiri Province, the local prosecutor indicated

that authorities never carried through with threats to file defamation charges against ADHOC staffers (Ref B). Regarding the intimidation of the NGO workers by a local judge, the King took an interest in the case after receiving letters from several NGOs about the judge's conduct; the Ministry of Justice called for an investigation (septel). There is no new information to report on the complaints of incitement in Banteay Meanchey (Ref B).

¶12. In total, 17 complaints filed since April 2008 have produced 7 convictions (or findings of liability), one acquittal, two retractions after the defendants publicly apologized to the plaintiffs, one case dismissed by the court (and upheld on appeal), and two on-going cases. Four other complaints have stalled without further action.
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